

ESTTA Tracking number: **ESTTA207568**

Filing date: **04/28/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91156321
Party	Plaintiff The Chamber of Commerce of the United States of America
Correspondence Address	William M. Merone Kenyon & Kenyon 1500 K Street N.W., Suite 700 Washington, DC 20005 UNITED STATES ekane@kenyon.com
Submission	Motion to Extend
Filer's Name	Erik C. Kane
Filer's e-mail	ekane@kenyon.com, tmdocketdc@kenyon.com
Signature	/Erik C. Kane/
Date	04/28/2008
Attachments	Motion for Extension of Time.pdf (6 pages)(26716 bytes) Kane Declaration.pdf (35 pages)(1279900 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA

Opposer,

v.

UNITED STATES HISPANIC CHAMBER
OF COMMERCE FOUNDATION,

Applicant.

Opposition No.: 91/156,321

Serial No.: 78/081,731

OPPOSER'S MOTION TO EXTEND TESTIMONY PERIOD

Pursuant to TBMP Sections 509 and Fed. R. Civ. P. 6(b), Opposer, The Chamber of Commerce of the United States of America, respectfully requests that its rebuttal testimony period be extended for a period of ten days for the purpose of allowing Opposer to conclude the deposition of a third party that had been properly set pursuant to subpoena for during the rebuttal testimony period, but which the third party needs to reschedule. As set forth below, Opposer has good cause for requesting the extension.

BACKGROUND

Opposer's rebuttal testimony period in the present proceeding opened on March 30, 2008, and is presently scheduled to close on April 28th. On April 21st, and pursuant to a subpoena served on April 7th, Opposer took the deposition of Daniel Ramos as the Rule 30(b)(6) corporate designee of third parties National Hispanic Corporate Achievers, Inc. and Hispanic Achievers, Inc. regarding a recently discovered misdirected communication

that evidences yet another instance of actual confusion. Specifically, as established by the testimony of Mr. Ramos, Mr. Ramos' organization(s) sent out a package of materials to each member of the Board of Directors of an organization called the Hispanic Association on Corporate Responsibility ("HACR"), including to a board member named "Michael Barrera," who was the president of the United States Hispanic Chamber of Commerce. The package intended for Mr. Barrera, however, was sent to Opposer's address.

Mr. Ramos testified that in determining to whom to send the letters, he referred to the "Alliance" webpage of HACR that listed the 2007 Board of Directors. Mr. Ramos explained, however, that the HACR webpage had already been updated by the time of his deposition, and that he could not be certain if the webpage he previously saw listed Mr. Barrera as being affiliated with the U.S. Chamber of Commerce or whether it properly listed him as president of the United States Hispanic Chamber of Commerce, which, if that was the case, would indicate that individuals in Mr. Ramos' organization(s) were confused when they ultimately sent the package to the U.S. Chamber's address.

Upon learning of this information, counsel for Opposer immediately confirmed that HACR had, in fact, already updated its website to list its 2008 Board of Directors. *See Declaration of Erik C. Kane ("Kane Decl."),* ¶7 (listing the current president of the "United States Hispanic Chamber of Commerce" as a board member). Nonetheless, counsel was able to locate an archived version of that website page (through the use of www.archive.org) dated August 13, 2007 that confirms that Mr. Barrera was previously listed on the site as being as the president of the United States Hispanic Chamber of Commerce. *See Kane Decl.,* ¶8. That same day (which was the next day after Mr. Ramos' deposition had taken place), Opposer served a subpoena *ad testificatum* on

HACR returnable on April 28th for the limited purpose of obtaining deposition testimony to authenticate the archived website printout or otherwise confirm the accuracy of the information contained thereon. *See Kane Decl.*, ¶9.

Unfortunately, though, counsel for HACR has informed Opposer that although it is not objecting to the propriety of the subpoena, it cannot produce a corporate designee to testify at a deposition until May 2nd at the earliest due to preexisting commitments and staff departures. Counsel for Opposer has had multiple conversations with counsel for HACR in an effort to accommodate their concerns while still completing the deposition within the currently scheduled testimony period, but has not been successful. Counsel for Opposer has also made multiple requests to Applicant for the purposes of obtaining a stipulation as to authenticity of the archived webpage or to the facts contained therein, but has received no response. *See Kane Decl.*, ¶11. Thus, Opposer is seeking a short ten day extension of its rebuttal testimony period so that it may take the HACR deposition.

ARGUMENT

Pursuant to TBMP Section 509.01(a) and Trademark Rule 2.121(c), a party may seek to extend its testimony period upon a showing of “good cause.” *TBMP*, §509.01(a). To establish good cause, the Board has explained that “a party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party’s own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor.” *Id.* The Board has also made it clear that it “will scrutinize carefully” a motion to extend to determine if good cause has been shown. *Id.*

Opposer submits that the above facts demonstrate that it has “good cause” to seek the requested extension. The extension Opposer seeks is short (ten days) and is for the limited purpose of authenticating a printout of an archived website or, in the alternative, establishing the facts necessary to independently confirm the accuracy of the information contained thereon—namely, that “Michael Barrera,” who used to be the president of the United States Hispanic Chamber of Commerce, in fact, had been listed as the president of that organization on the HACR website last year. Opposer only learned of the relevance of this information during the April 21st deposition of Mr. Ramos, and it immediately took action the next day to subpoena HACR to appear for a April 28th deposition in order to authenticate the material in question. As it turns out, however, HACR will not be able to produce a witness with relevant knowledge until May 2nd. As such, Opposer submits that it has shown good cause for extending its rebuttal testimony period.¹

¹ In the current action, Applicant has also moved to extend its testimony period, a motion that Opposer opposed. *See* Docket Nos. 51, 54 (Serial No. 78081731). Unlike Applicant’s motion, however, Opposer has presented good cause for seeking an extension. Specifically, and as discussed in Opposer’s opposition to Applicant’s motion, Applicant waited until the very end of its testimony period and then sought trial “discovery” of ten third parties, double- and triple-tracking many of those depositions over the last few days of its testimony period. Moreover (and more importantly), Applicant offered no reason for why the depositions it sought to take outside of its testimony period could not have been conducted earlier during its period, which was open for nearly seven months, nor has it identified anything new or surprising raised by the testimony of others witness properly taken during Applicant’s testimony period that necessitated these additional out-of-time depositions. *See generally* Docket No. 54. As such, Applicant failed to establish “good cause.” *See TBMP*, §509.01(a) (“a party moving to extend time must demonstrate that the requested extension of time *is not necessitated by the party’s own lack of diligence or unreasonable delay* in taking the required action during the time previously allotted therefor”) (emphasis added); *accord Luehrmann v. Kwik Kopy Corp.*, 2 USPQ2d 1303 (TTAB 1987) (a party’s desire to conduct follow-up discovery held not to establish “good cause” for extending the discovery period where party seeking the extension did not serve initial discovery requests until late in the discovery period). In contrast here, Opposer subpoenaed HACR immediately after it learned of the relevance of HACR’s website during Mr. Ramos’s deposition, information of which up to that point it had not been aware previously.

CONCLUSION AND PROPOSED SCHEDULE

For the reasons set forth above, Opposer respectfully submits that good cause exists for granting the requested extension.² The new schedule would be as follows:

Discovery Period to Close:	CLOSED
Opposer's Testimony to Close:	CLOSED
Applicant's Testimony to Close:	CLOSED
Opposer's Rebuttal to Close:	May 8, 2008
Applicant's Rebuttal to Close:	June 24, 2008
Opposer's brief is due:	August 23, 2008
Applicant's brief is due:	September 22, 2008
Opposer's reply brief is due:	October 22, 2008
Applicant's reply brief is due:	November 6, 2008

Respectfully submitted,

Date: April 28, 2008

/Erik C. Kane/
Edward T. Colbert
William M. Merone
Erik C. Kane
KENYON & KENYON LLP
1500 K Street, N.W.; Suite 700
Washington, D.C. 20005
Tel.: (202) 220 – 4200
Fax: (202) 220 – 4201

Counsel for Opposer

² Out of an abundance of caution, Opposer has reissued the subpoena on HACR with a return date of May 2, 2008 in co-pending Cancellation No. 92/045,876, which is closely related to the present case. Opposer had originally planned on taking the testimony in the Opposition proceeding and then submitting it in the Cancellation proceeding pursuant to the Board's Order of November 26, 2007 (D.I. 38) in the Cancellation proceeding. However, if necessary Opposer will take the testimony in its Cancellation testimony period scheduled to close on May 4, and then seek the Board's leave to rely on that testimony in this proceeding.

CERTIFICATE OF SERVICE

I hereby certify that the required number of copies of the foregoing *Opposer's Motion To Extend Testimony Period* was served on the parties or counsel on the date and as indicated below:

By First-Class Mail (Postage Prepaid)

Jill M. Pietrini
Andrew Eliseev
MANATT PHELPS & PHILLIPS, LLP
11355 W. Olympic Boulevard
Los Angeles, CA 90064-1614

Date: April 28, 2008

_____/Erik C. Kane/
Edward T. Colbert
William M. Merone
Erik C. Kane
KENYON & KENYON LLP
1500 K Street, N.W.; Suite 700
Washington, D.C. 20005
Tel.: (202) 220 – 4200
Fax: (202) 220 – 4201

Counsel for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA

Opposer,

v.

UNITED STATES HISPANIC CHAMBER
OF COMMERCE FOUNDATION,

Applicant.

Opposition No.: 91/156,321

Serial No.: 78/081,731

DECLARATION OF ERIK C. KANE

The undersigned, Erik C. Kane, states that the following is true and accurate to the best of his information and belief and if called to testify, could and would testify competently as follows:

1. I am an associate with the law firm of Kenyon & Kenyon LLP. Included among my duties is representation of The Chamber of Commerce of the United States of America (“Opposer”) in the above captioned opposition proceeding. I am making this declaration in support of Opposer’s Motion for an Extension of Time.
2. Attached as Exhibit 1 is a true and correct copy of a letter I received from Opposer’s inside counsel. (“Hispanic Achievers Letter”).
3. Upon receipt of the Hispanic Achievers Letter, Opposer looked for information regarding the sender Hispanic Achievers, Inc. After reviewing Florida

corporation records, Opposer learned the principal of that organization was Daniel Ramos.

4. Upon learning this information, over the course of multiple weeks Opposer attempted to contact Mr. Ramos both by telephone and letter regarding taking his deposition in this proceeding at a convenient time regarding the Hispanic Achievers Letter. Despite these efforts, Mr. Ramos never responded to Opposer's inquiries.

5. Having received no reply from Mr. Ramos as to scheduling, Opposer then served Hispanic Achievers, Inc., as well as National Hispanic Corporate Achievers, Inc on April 7, 2008 noticing a deposition with a return date of April 21, 2008. Attached hereto as Exhibits 2-3 are true and correct copies of the subpoenas served on Hispanic Achievers, Inc. and National Hispanic Corporate Achievers, Inc. The subpoenas were addressed to the organizations based upon their principal address in the Florida Secretary of State Corporate records for those organizations. After the process server indicated that such offices were vacated, Opposer re-served the subpoenas on April 7, 2008 on those organizations' registered agent listed in the Florida Secretary of State Corporate records for those organizations.

6. Opposer never received any response from Mr. Ramos or his organizations regarding the subpoenas until showing for the deposition on April 21, 2008.

7. Attached as Exhibit 4, is a true and correct copy of the webpage located at <http://www.hacr.org/alliance/>.

8. Attached as Exhibit 5, is a true and correct copy of the webpage located at <http://web.archive.org/web/20070813192604/http://www.hacr.org/alliance/>.

9. Attached as Exhibit 6, is a true and correct copy of a subpoena served by Opposer on April 22, 2008 on the Hispanic Association on Corporate Responsibility (HACR) with a return date of April 28, 2008.

10. On April 23, 2008, I received a call from a Michael Veve who indicated he was counsel for HACR. Mr. Veve indicated that HACR did not have anyone available to testify on its behalf on April 28, 2008. After multiple telephone conversations, Mr. Veve indicated that someone from HACR would be available to testify at deposition on May 2, 2008.

11. Attached as Exhibit 7, is a copy of a April 22, 2008 letter (without exhibits) sent from me to counsel for Applicant.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4/28/08 Erin L. Kane

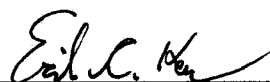
CERTIFICATE OF SERVICE

I hereby certify that the required number of copies of the foregoing *Declaration of Erik C. Kane* was served on the parties or counsel on the date and as indicated below:

By Federal Express (Postage Prepaid)

Jill M. Pietrini
Attorney for Applicant
MANATT PHELPS & PHILLIPS, LLP
11355 W. OLYMPIC BOULEVARD
LOS ANGELES, CA 90064-1614

Date: 4/28/08



Edward T. Colbert
William M. Merone
Erik C. Kane
KENYON & KENYON LLP
1500 K Street, N.W.; Suite 700
Washington, D.C. 20005
Tel.: (202) 220 – 4200
Fax: (202) 220 – 4201

*Counsel for Opposer,
The Chamber of Commerce of the United
States of America*

Exhibit 1

Soto Sudbury LLP
ATTORNEYS AND COUNSELORS AT LAW

250 NORTH ORANGE AVENUE, SUITE 550 ORLANDO, FLORIDA 32801 (407) 313-5900
FAX (407) 313-5901



January 31, 2008

First Class Mail

General Counsel
~~Philip Morris USA~~
P.O. Box 26603
Richmond, Virginia 23261

Re: NHCA, Inc., et al. v. HACR, 07-CV-1949 (MDFL)

Dear General Counsel:

This office has the pleasure to represent National Hispanic Corporate Achievers, Inc. ("NHCA"), and its President and CEO, Daniel Ramos. I write to you in reference to my client's recent filing of a trademark infringement action in the United States District Court for the Middle District of Florida against the Hispanic Association on Corporate Responsibility ("HACR").

Mr. Ramos has in the past done business with Philip Morris USA ("Philip Morris") under the business names "Hispanic Achievers," "Hispanic Corporate Achievers," and "National Hispanic Corporate Achievers." At some point in 2006, HACR, which engages in the same type of Hispanic community outreach projects and promotions, adopted the confusingly similar name "Young Hispanic Corporate Achievers" and entered into some form of relationship with Philip Morris, as evidenced by HACR's website listing of Philip Morris as a sponsor.

We have attached a copy of the complaint for your review. In the near future we will be seeking discovery from Philip Morris relating to your relationship with HACR and HACR's unlawful use of NHCA's trademarks. As part of our request, we will seek disclosure of the existence and content of any communications by and between Ford and HACR and the existence and amount of any disbursements of funds from Philip Morris to HACR, among other requests. We respectfully ask that at this time you take all necessary steps to ensure preservation of all information, whether electronic or otherwise, relevant to our claims.

In addition, we note that your own trademarks are being prominently displayed by HACR in conjunction with their continued unlawful use of NHCA's brand. For example, your company logo and name is prominently displayed on the HACR website, and we have reason to believe that the same is being used and/or displayed on other HACR material such as advertising brochures, business proposals, fliers, and other like media. We hereby request that you take any and all necessary steps to dissociate yourselves from any continued participation in HACR's unlawful activity in an effort to

SOTO SUDBURY LLP
Tel. (407) 313-5900 • Fax (407) 313-5901

Page 1 of 2

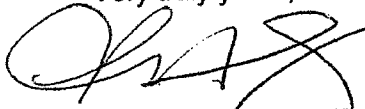
250 N. Orange Avenue • Suite 550
Orlando, Florida 32801

USCC 57204

mitigate the current situation. We view HACR's actions as predatory in nature and wholly unbecoming of a nonprofit organization dedicated to the advancement of Hispanics in business. Any continued association with HACR's trademark infringements can only be seen as ratification of their conduct and will reflect poorly upon your company both in the Hispanic business community and the public at large.

We look forward to your cooperation in this important matter. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Adam H. Sudbury, Esq.
Soto Sudbury LLP

Encls.

cc: National Hispanic Corporate Achievers, Inc.

Soto Sudbury LLP
ATTORNEYS AND COUNSELORS AT LAW

250 NORTH ORANGE AVENUE, SUITE 550 ORLANDO, FLORIDA 32801 (407) 313-5900
FAX (407) 313-5901



January 31, 2008

First Class Mail

General Counsel
Ford Motor Company
16800 Executive Plaza Drive, MD3E-B
Deerborn, Michigan 48126-4207

Re: NHCA, Inc., et al. v. HACR, 07-CV-1949 (MDFL)

Dear General Counsel:

This office has the pleasure to represent National Hispanic Corporate Achievers, Inc. ("NHCA"), and its President and CEO, Daniel Ramos. I write to you in reference to my client's recent filing of a trademark infringement action in the United States District Court for the Middle District of Florida against the Hispanic Association on Corporate Responsibility ("HACR").

Mr. Ramos has in the past done business with Ford Motor Company ("Ford") under the business names "Hispanic Achievers," "Hispanic Corporate Achievers," and "National Hispanic Corporate Achievers." At some point in 2006, HACR, which engages in the same type of Hispanic community outreach projects and promotions, adopted the confusingly similar name "Young Hispanic Corporate Achievers" and entered into some form of relationship with Ford, as evidenced by HACR's website listing of Ford as a HACR sponsor.

We have attached a copy of the complaint for your review. In the near future we will be seeking discovery from Ford relating to your relationship with HACR and HACR's unlawful use of NHCA's trademarks. As part of our request, we will seek disclosure of the existence and content of any communications by and between Ford and HACR and the existence and amount of any disbursements of funds from Ford to HACR, among other requests. We respectfully ask that at this time you take all necessary steps to ensure preservation of all information, whether electronic or otherwise, relevant to our claims.

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SOTO SUDBURY LLP
Tel. (407) 313-5900 • Fax (407) 313-5901

Page 1 of 2

250 N. Orange Avenue • Suite 550
Orlando, Florida 32801

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FEB 19 2008

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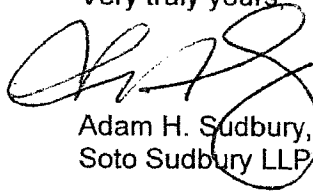
Soto Sudbury LLP

ATTORNEYS AND COUNSELORS AT LAW

mitigate the current situation. We view HACR's actions as predatory in nature and wholly unbecoming of a nonprofit organization dedicated to the advancement of Hispanics in business. Any continued association with HACR's trademark infringements can only be seen as ratification of their conduct and will reflect poorly upon your company both in the Hispanic business community and the public at large.

We look forward to your cooperation in this important matter. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Adam H. Sudbury, Esq.
Soto Sudbury LLP

Encls.

cc: National Hispanic Corporate Achievers, Inc.

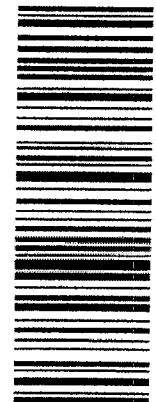
Hispanic Achievers
PO Box 160912
Altamonte Springs, FL 32746

PA4

FEB 1 9 08

7006 2760 0003 8576 UNITED STATES FLORIDA PDC
FL 327 4 T
2008 PM

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
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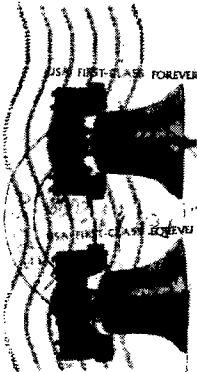
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Michael L. Barrera
United States Chamber of Commerce
1615 H Street, NW
Washington, DC 20062-2000

General Council

20062+2000



U.S. POSTAGE
PAID
LONGWOOD, FL
32750
FEB 11 08
AMOUNT
\$2.24
00014165-08



Exhibit 2

AFFIDAVIT OF SERVICE

UNITED STATES DISTRICT COURT District of

Case Number: TTAB OPP. NO. 91/156,321

Plaintiff:

THE CHAMBER OF COMMERCE OF COMMERCE FOUNDATION

vs.

Defendant:

UNITED STATES HISPANIC CHAMBER OF COMMERCE FOUNDATION

For:

Erik Kane, Esq.

KENYON & KENYON LLP

1500 K Street, N W

Washington, DC 20005

Received by VERITEXT NATIONAL DEPOSITION & LITGATION on the 4th day of April, 2008 at 1:00 pm to be served on **HISPANIC ACHIEVERS, INC., 1801 East Colonial Drive, Suite 207, Orlando, FL 32803.**

I, Derrick Redding, Sr., being duly sworn, depose and say that on the **7th day of April, 2008 at 3:55 pm, I:**

Served the within named **CORPORATION** by delivering a true copy of the **LETTER and SUBPOENA IN A CIVIL CASE and SCHEDULE A** with the date and hour of service endorsed thereon by me to **RICHARDO CALZADA** as **Registered Agent** of the within named corporation, in compliance with state statutes.

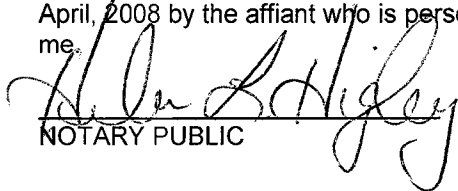
Additional Information pertaining to this Service:

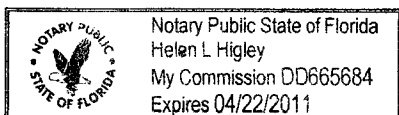
Service was attempted at the 1st address provided at: 1801 East Colonial Drive, Suite 207, Orlando, FL. This address is vacant. Neighboring businesses stated that the subjects moved out some time ago.

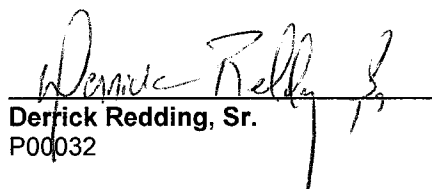
A 2nd address was provided at: 419 N. Magnolia Ave, Orlando, FL 32801. Service was perfected there.

I certify that I am over the age of 18, have no interest in the above action, and am a Special Process Server in good standing in the county in which the process was served.

Subscribed and Sworn to before me on the 8th day of April, 2008 by the affiant who is personally known to me.


NOTARY PUBLIC




Derrick Redding, Sr.
P00032

VERITEXT NATIONAL DEPOSITION & LITGATION
1350 Broadway
Suite 1407
New York, NY 10018
(212) 490-3430
Our Job Serial Number: 2008003172
Ref: National Achievers, Inc.

3172

4/17/08
3:55pm
Ricardo Calzada
p. Kelly S.
#4535

Issued by the
UNITED STATES DISTRICT COURT

Middle District of Florida

THE CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA

SUBPOENA IN A CIVIL CASE

V.
UNITED STATES HISPANIC CHAMBER
OF COMMERCE FOUNDATION

Case Number:¹ TTAB Opp. No. 91/156,321

TO: Hispanic Achievers, Inc.
1801 East Colonial Drive, Suite 207
Orlando, FL 32803

PENDING BEFORE THE TRADEMARK TRIAL
AND APPEAL BOARD OF THE U.S. PATENT
AND TRADEMARK OFFICE

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. SEE ATTACHED SCHEDULE A

PLACE OF DEPOSITION	DATE AND TIME
Veritext-37 N. Orange Avenue, Ste. 500, Orlando, FL 32801	4/21/2008 1:00 pm

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Erik Kane Attorney for Opposer	4/4/08

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Erik Kane, Esq., Kenyon & Kenyon LLP, 1500 K Street, NW, Washington, D.C. 20005
(202-220-4294)

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

SERVED	DATE 4/7/08	PLACE 419 N. Magnolia Avenue Orlando, Florida 32801
SERVED ON (PRINT NAME) Ricardo Calzada	MANNER OF SERVICE Corporate	
SERVED BY (PRINT NAME) Derrick W. Redding Sr.	TITLE Special Process Server	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

4/7/08
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A

1. Correspondence sent or forwarded by you (or someone acting on your behalf) to the Chamber of Commerce of the United States of America (also known as the "U.S. Chamber of Commerce") in February 2008.

Exhibit 3

AFFIDAVIT OF SERVICE

UNITED STATES DISTRICT COURT District of

Case Number: TTAB OPP. NO. 91/156,321

Plaintiff:

THE CHAMBER OF COMMERCE OF COMMERCE FOUNDATION

vs.

Defendant:

UNITED STATES HISPANIC CHAMBER OF COMMERCE FOUNDATION

For:

Erik Kane, Esq.
KENYON & KENYON LLP
1500 K Street, N W
Washington, DC 20005

Received by VERITEXT NATIONAL DEPOSITION & LITIGATION on the 4th day of April, 2008 at 1:00 pm to be served on **NATIONAL HISPANIC CORPORATE ACHIEVERS, INC., 1801 East Colonial Drive, Suite 207, Orlando, FL 32803.**

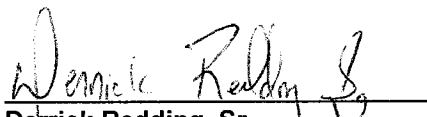
I, Derrick Redding, Sr., being duly sworn, depose and say that on the **7th day of April, 2008 at 3:55 pm, I:**

Served the within named **CORPORATION** by delivering a true copy of the **LETTER and SUBPOENA IN A CIVIL CASE and SCHEDULE A** with the date and hour of service endorsed thereon by me to RICHARDO CALZADA as **Registered Agent** of the within named corporation, in compliance with state statutes.

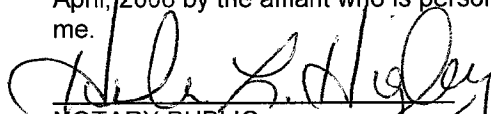
Additional Information pertaining to this Service:

Service was attempted at the 1st address provided at: 1801 East Colonial Drive, Suite 207, Orlando, FL. This address is vacant. Neighboring businesses stated that the subjects moved out some time ago.
A 2nd address was provided at: 419 N. Magnolia Ave, Orlando, FL 32801. Service was perfected there.

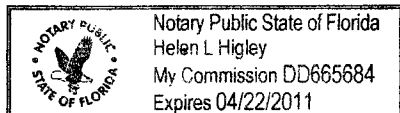
I certify that I am over the age of 18, have no interest in the above action, and am a Special Process Server in good standing in the county in which the process was served.


Derrick Redding, Sr.
P00032

Subscribed and Sworn to before me on the 8th day of April, 2008 by the affiant who is personally known to me.


NOTARY PUBLIC

VERITEXT NATIONAL DEPOSITION & LITIGATION
1350 Broadway
Suite 1407
New York, NY 10018
(212) 490-3430
Our Job Serial Number: 2008003173
Ref: National Achievers, Inc.



3170
4/7/08
3:59pm
Renee C. Carter
J. Kelly S.
#4535

Issued by the
UNITED STATES DISTRICT COURT

Middle District of Florida

THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA

SUBPOENA IN A CIVIL CASE

V.

UNITED STATES HISPANIC CHAMBER
OF COMMERCE FOUNDATION

Case Number:¹ TTAB Opp. No. 91/156,321

TO: National Hispanic Corporate Achievers, Inc.
1801 East Colonial Drive, Suite 207
Orlando, FL 32803

PENDING BEFORE THE TRADEMARK TRIAL
AND APPEAL BOARD OF THE U.S. PATENT
AND TRADEMARK OFFICE

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. SEE ATTACHED SCHEDULE A

PLACE OF DEPOSITION Veritext - 37 N. Orange Avenue, Ste. 500, Orlando, FL 32801	DATE AND TIME 4/21/2008 3:00 pm
--	------------------------------------

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) <i>Erik C. Kane, Attorney for Opposer</i>	DATE 4/4/08
--	----------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Erik C. Kane, Esq., Kenyon & Kenyon LLP, 1500 K. Street, NW, Washington, DC 20005
(202-220-4294)

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE		PLACE	
SERVED	4/7/08	419 N. Magnolia Avenue Orlando, Florida 32801	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
Ricardo Salazar		Corporate	
SERVED BY (PRINT NAME)		TITLE	
Derrick W. Reilly		Special Process Server	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

4/7/08
DATEDerrick W. Reilly
SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) Avoiding Undue Burden or Expense: Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction -- which may include lost earnings and reasonable attorney's fees -- on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises -- or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person -- except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A

1. Correspondence sent or forwarded by you (or someone acting on your behalf) to the Chamber of Commerce of the United States of America (also known as the "U.S. Chamber of Commerce") in February 2008.

Exhibit 4



Hispanic Association on Corporate Responsibility

Employment - Procurement - Philanthropy - Governance

HOME ABOUT US **HACR ALLIANCE** CONTACT US MEDIA PARTNERSHIP BOARD OF DIRECTORS BOARD OF ADVISORS

HACR Alliance

The Hispanic Association on Corporate Responsibility has developed strong partnerships at two levels. Coalition Members consist of 13 national Hispanic organizations that form the backbone of HACR and whose executive directors, presidents and CEOs serve as board members to the organization. The HACR Corporate Members have taken a leadership position among other *FORTUNE* 1,000 companies and made a serious long-term commitment to the Hispanic community. They work very closely with the organization and its board of directors on issues that are important to their constituents -- the Hispanic community.

2008 BOARD OF DIRECTORS

Manuel Mirabal, Chair, Development Committee
National Puerto Rican Coalition
Chair

Alma Morales Riojas, President and CEO
MANA, A National Latina Organization
Vice Chair

Ron Blackburn-Moreno, President and CEO
ASPIRA Association, Inc.
Treasurer

Guarione Diaz, President and CEO
Cuban American National Council
Secretary

Congressman Joe Baca, Chair
Congressional Hispanic Caucus Institute

Antonio R. Flores, President and CEO
Hispanic Association of Colleges and Universities

Congressman Lincoln Diaz-Balart, Chair
Congressional Hispanic Leadership Institute, Inc.

Augustine Martinez, President and CEO
United States Hispanic Chamber of Commerce

Antonio Gil Morales, National Commander
American GI Forum of the United States

HACR Alliance

Coalition Members

Corporate Members

Board Access

Janet Murguia, President and CEO
National Council of La Raza

Clara Padilla Andrews, President
National Association of Hispanic Publications

Rosa Rosales, National President
League of United Latin American Citizens

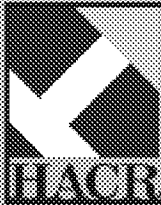
Ignacio Salazar, President and CEO
SER-Jobs for Progress National, Inc.

Agustin De Goytisolo
Board Member Emeritus

Raul Yzaguirre
Board Member Emeritus

[TOP](#)

Exhibit 5



Hispanic Association on Corporate Responsibility

Employment - Procurement - Philanthropy - Governance

HOME ABOUT HACR ALLIANCE COALITION MEMBERS CORPORATE MEMBERS BOARD ACCESS

HACR Alliance

The **Hispanic Association on Corporate Responsibility** has developed strong partnerships at two levels. **Coalition Members** consist of 14 national Hispanic organizations that form the backbone of HACR and whose executive directors, presidents and CEOs serve as board members to the organization. The HACR **Corporate Members** have taken a leadership position among other *FORTUNE* 1,000 companies and made a serious long-term commitment to the Hispanic community. They work very closely with the organization and its board of directors on issues that are important to their constituents -- the Hispanic community.

2007 BOARD OF DIRECTORS

Manuel Mirabal, President and CEO
National Puerto Rican Coalition
Chair

Alma Morales Riojas, President and CEO
MANA, A National Latina Organization
Vice Chair

Ron Blackburn-Moreno, President and CEO
ASPIRA Association, Inc.
Treasurer

Clara Padilla Andrews, President
National Association of Hispanic Publications

Congressman Joe Baca, Chair
Congressional Hispanic Caucus Institute

Michael L. Barrera, President and CEO
United States Hispanic Chamber of Commerce

Louis Berrios, Chair
MENT•R, The National Hispanic Employee Network

Antonio R. Flores, President and CEO
Hispanic Association of Colleges and Universities

Congressman Lincoln Diaz-Balart, Chair
Congressional Hispanic Leadership Institute, Inc.

George Foyo, Chair

[HACR Alliance](#)

[Coalition Members](#)

[Corporate Members](#)

[Board Access](#)

Cuban American National Council

Antonio Gil Morales, National Commander
American GI Forum of the United States

Janet Murguia, President and CEO
National Council of La Raza

Rosa Rosales, National President
League of United Latin American Citizens

Ignacio Salazar, President and CEO
SER-Jobs for Progress National, Inc.

Agustin De Goytisolo
Board Member Emeritus

Raul Yzaguirre
Board Member Emeritus

[TOP](#)

Exhibit 6

Issued by the
UNITED STATES DISTRICT COURT
 District of Columbia

THE CHAMBER OF COMMERCE OF
 THE UNITED STATES OF AMERICA
 V.

SUBPOENA IN A CIVIL CASE

UNITED STATES HISPANIC CHAMBER OF
 COMMERCE FOUNDATION

Case Number:¹ TTAB Opp. No. 91/156,321

PENDING BEFORE THE TRADEMARK TRIAL
 AND APPEAL BOARD OF THE U.S. PATENT
 AND TRADEMARK OFFICE

TO: Hispanic Association on Corporate Responsibility
 1444 I Street, NW, Suite 850
 Washington, DC 20005

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. SEE ATTACHED SCHEDULE A

PLACE OF DEPOSITION KENYON & KENYON LLP 1500 K Street, NW, Washington, DC 20005	DATE AND TIME 4/28/2008 1:00 pm
---	------------------------------------

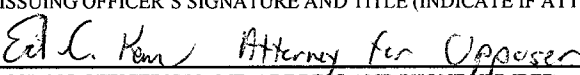
☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Opposer	DATE 4/22/08
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Erik C. Kane, Esq., Kenyon & Kenyon LLP, 1500 K Street, NW, Washington, DC 20005 (202-220-4292) DC Bar # 4951561	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

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(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A

1. Members of your HACR Alliance Board of Directors in 2007 and 2008.
2. Contents of your website in December 2007 – January 2008 timeframe, specifically the “HACR Alliance” page.
3. Whether the attached page printed out from archive.org accurately reflects the way your HACR Alliance page on your website appeared at least at some point in 2007.

[HOME](#)[ABOUT US](#)[RESEARCH INSTITUTE](#)[EVENTS](#)[MEDIA CENTER](#)[JOIN PAGE](#)

HACR Alliance

The **Hispanic Association on Corporate Responsibility** has developed strong partnerships at two levels. **Coalition Members** consist of 14 national Hispanic organizations that form the backbone of HACR and whose executive directors, presidents and CEOs serve as board members to the organization. The HACR **Corporate Members** have taken a leadership position among other *FORTUNE* 1,000 companies and made a serious long-term commitment to the Hispanic community. They work very closely with the organization and its board of directors on issues that are important to their constituents -- the Hispanic community.

[HACR Alliance](#)[Coalition Members](#)[Corporate Members](#)[Board Access](#)

2007 BOARD OF DIRECTORS

Manuel Mirabal, President and CEO
National Puerto Rican Coalition
Chair

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MANA, A National Latina Organization
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ASPIRA Association, Inc.
Treasurer

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National Association of Hispanic Publications

Congressman Joe Baca, Chair
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Michael L. Barrera, President and CEO
United States Hispanic Chamber of Commerce

Louis Berrios,
Chair
The National Hispanic Employee Network

MENTOR,

Antonio R. Flores, President and CEO
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National Council of La Raza

Rosa Rosales, National President
League of United Latin American Citizens

Ignacio Salazar, President and CEO
SER-Jobs for Progress National, Inc.

Agustin De Goytisolo
Board Member Emeritus

Raul Yzaguirre
Board Member Emeritus

TOP

Exhibit 7

April 22, 2008

By First Class Mail & Facsimile

Jill M. Pietrini, Esq.
Andrew Eliseev, Esq.
MANATT, PHELPS & PHILLIPS L.P.
11355 West Olympic Blvd.
Los Angeles, California 90064-1614

Re: US Chamber v. US Hispanic Chamber, Opposition No. 91/156,321

Enclosed please find copies of *Notices of Depositions* for Chrissi Jones of the Chamber of Commerce of the United States of America and for the Hispanic Association on Corporate Responsibility (HACR), both of which have been scheduled for April 28, 2008, in Washington. Also enclosed is a copy of the subpoena being served on HACR and/or its agent.

These depositions relate directly to the testimony provided yesterday by Daniel Ramos and are being sought merely for the purpose of authenticating two documents.

Specifically, Ms. Jones works in the mailroom of the U.S. Chamber and will testify that she personally received and reviewed the letter (USCC 57204 – 57208) sent by Mr. Ramos, and that because the letter was not addressed to anyone at the U.S. Chamber and referenced a legal matter, she directed that the letter be forwarded to the legal department by making a handwritten notation on the envelope. As this testimony would seem not to be controversial, we submit that the need for this deposition could be avoided by having Ms. Jones submit a declaration as to those facts, subject to you having the right to call her during your reply period for cross-examination if you thought it was necessary after reviewing her written testimony.

Separately, as Andrew is aware, Mr. Ramos testified yesterday that he identified Mr. Barrera as a person to whom copies of the correspondence in question should be sent because Mr. Barrera was listed on the HACR website as a Board member, and that Mr. Barrera's listing also included his organizational affiliation. Unfortunately, however, the HACR website was updated recently to reflect the current Board, and now includes the following listing:

Augustine Martinez, President and CEO
United States Hispanic Chamber of Commerce

(See <http://www.hacr.org/alliance/>) (attached)



We believe that it cannot be disputed that Mr. Barrera was similarly listed on the 2007 version of the HACR website. To that end, please find attached a copy of the webpage in question that we downloaded from an archive site. As you can see, the listing is similar:

Michael L. Barrera, President and CEO
United States Hispanic Chamber of Commerce

So as to obviate the need for a representative of HACR to be deposed for the limited purpose of confirming this information, we would ask that you stipulate that Mr. Barrera was previously listed on the HACR website in the manner shown in the attached exhibit, up until the point when the Board of Directors for HACR was changed (presumably in January 2008). As your client is a coalition member of HACR, we would presume that you can speak directly with the organization to the extent that you have any concerns as to the accuracy of the stipulation, but we believe that the evidence is fairly clear and that it should not be controversial.

Please let us know if Applicant will be willing to work with us on these two minor evidentiary points which should avoid the need to take these additional depositions. Otherwise, we plan to proceed with both deposition this Monday, April 28, 2008.

Regards,

KENYON & KENYON LLP

Erik C. Kane

ECK

Enclosures